

Section 504 Frequently Asked Questions

By John Copenhaver

The following questions are frequently asked by individuals interested in Section 504 issues of school relevance.

Q: Are all schools required to adhere to Section 504?

A: Yes, all schools that receive any federal financial assistance must comply with Section 504 of the Rehabilitation Act of 1973.

Q: Are schools required to have a Section 504 Coordinator?

A: Yes, all schools must designate, in writing, a person who coordinates 504 services and protections.

Q: Are students who are covered under IDEA always eligible for Section 504 protections?

A: Yes

Q: Are students who are covered under Section 504 always eligible for IDEA services?

A: No

Q: Are schools responsible for referring students suspected of being eligible for Section 504?

A: Yes

Q: Do schools have to evaluate students who are referred for Section 504?

A: No, if the school does not believe that the student is eligible, then an evaluation is not required. However, if this decision is made, the student's parents must be informed of their due process rights to appeal.

Q: Do schools have to formally evaluate students?

A: Yes, schools do have to evaluate students before determining their eligibility for services and before deciding which services are appropriate; however, unlike IDEA, which requires extensive testing, Section 504 includes teacher observations and other informal assessment data as appropriate assessment information.

Q: Do schools have to develop an IEP on students who are 504 eligible only?

A: No, an IEP is not required; however, schools must develop an individual accommodation plan for the student.

Q: Does a physician's diagnosis of ADD/ADHD automatically result in a student being eligible for Section 504?

A: No, a physician's diagnosis should be considered as one piece of documentation when evaluating the child. However, a physician's diagnosis alone does not automatically result in eligibility for Section 504.

Q: Do schools have to reevaluate students who are receiving Section 504 services and protections?

A: Yes, schools are required to periodically evaluate students. Unlike IDEA, which requires a reevaluation every 3 years, Section 504 does not specify a time period.

Q: Must schools get permission from parents before getting students involved in Section 504 services?

A: No, consent is not required; however, schools are required to inform parents before following procedures required under Section 504.

Q: Do schools have to label a student with a clinical category before providing protections under Section 504?

A: No, unlike IDEA, Section 504 does not require a specific label on a student before eligibility. Students never have to have a specific disability but only have to meet the functional definition of disability as defined in Section 504.

Q: Do students with disabilities have to be included in all school activities?

A: Yes, students with disabilities must be given the opportunity to participate in all activities that the school makes available for other students. They cannot be denied participation because of a disability.

Q: Do schools have to make all of their buildings accessible to students with disabilities?

A: No, schools are required to make all programs accessible for students with disabilities, not all buildings.

Q: What can parents do if they are dissatisfied with the way schools are serving students eligible for Section 504 protections?

A: Parents can file a complaint with the U.S. Office for Civil Rights, request an impartial due process hearing, or file suit in federal court.

Q: Can students served under Section 504 receive related services, such as physical therapy?

A: Yes, schools must provide related services to students who are eligible for services under Section 504. The only service that a student under Section 504, unlike under IDEA, may need is a related service.

Q: Is there any extra federal funding for schools to use to provide appropriate services under Section 504?

A: No, there are no federal or state funds associated with serving Section 504 students.

Q: Can students who are eligible for Section 504, but not IDEA, be served in special education classrooms?

A: Section 504 students can be served in special education classes if the classes are funded with state funds or local funds. They can be served in IDEA-funded classrooms as long as there is space available and their presence does not hinder IDEA-eligible students.

Q: If a student can be served under either IDEA or Section 504, which should the school attempt to use to serve the student?

A: Schools receive federal funds to provide services under IDEA but do not receive any extra funding for Section 504 students. Therefore, if the school has a choice pertaining to how to serve a particular student, IDEA provides funding support.

Q: Is Section 504 age-specific, like IDEA, which only deals with students through the age of 22?

A: No, Section 504 is a birth-to-death law. Students do not “age out” for Section 504 services and protections.

Q: Can schools use any tests that they want when evaluating students for Section 504 services?

A: No, while Section 504 is not specific about how to evaluate students for services, it does require that schools obtain information from a variety of sources and requires that nondiscriminatory testing methods be used when students are evaluated using test instruments.

Q: Are eligibility guidelines for Section 504 specific?

A: No, the eligibility requirements for Section 504 are rather vague. Basically, a student is eligible for services and protections if the student has a disability, as defined in the act. This means that a substantial limitation must occur in a basic life activity.

Q: Where are most students who are eligible for Section 504 services placed?

A: Most students, who are eligible for Section 504, but not IDEA, are primarily served in general education classrooms.

Q: Can students who are served under Section 504 be expelled from school?

A: Yes, however, expulsion is considered a major change of placement, and Section 504 requires an evaluation before any change of placement. The determination should also be made regarding the relationship of the inappropriate behavior and the disability.